

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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B.K.,

Plaintiff,

COMPLAINT

-against-

DIOCESE OF BROOKLYN, and ST. ROSE OF LIMA ROMAN
CATHOLIC CHURCH,

Index No. _____

Defendants.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, B.K., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

Introduction

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when he was a minor, was sexually assaulted by Father Romano Ferraro, a Priest and serial pedophile assigned by the Diocese of Brooklyn to St. Rose of Lima Church in Queens County.

Parties, Jurisdiction and Venue

1. Plaintiff B.K. is a citizen and resident of the State of New York.
2. Defendant, Diocese of Brooklyn (hereafter, the “Diocese” or the “Diocese of Brooklyn”), is a religious institution and organization with principal offices located at 310 Prospect Road West, Brooklyn, New York. The Diocese of Brooklyn controls all Catholic religious, pastoral and educational functions in the boroughs of Brooklyn and Queens, encompassing

approximately 180 parishes and 210 churches. The Diocese is a citizen and resident of the State of New York.

3. Defendant, St. Rose of Lima Roman Catholic Church is a Catholic parish and church located in Queens County, New York. The parish has a school, known as the St. Rose of Lima School. (Hereafter the parish and school are collectively referred to as “St. Rose of Lima” or the “Church”). At all relevant times, St. Rose of Lima was owned, controlled and operated by the Diocese of Brooklyn.

4. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

5. Personal jurisdiction lies over Defendants as they are present and domiciled in the State of New York.

6. Venue of this action lies in Kings County as the Defendant has its principal place of business in Kings County.

Father Romano Ferraro’s History of Child Sexual Abuse

7. Romano Ferraro entered seminary in or about 1954 and was ordained as a priest in May, 1960. Prior to ordination, Ferraro left the seminary because he was conflicted over his sexual proclivity for boys. Diocesan officials, advised by Ferraro of this issue, convinced Ferraro to return to the seminary and continue to pursue a career in the priesthood. He was ordained as a Priest by the Diocese of Brooklyn in May, 1960.

8. Father Ferraro sexually abused boys from the beginning of his tenure as a Priest, preferring boys ages 12 – 15. He sexually abused numerous children over decades as an active Priest of the Diocese of Brooklyn.

9. Father Ferraro was transferred between different assignments in the Diocese until being assigned to the United States Navy as a Military Chaplain in or about 1968. Upon information and belief, he was dishonorably discharged from the Navy in approximately 1970, based on an allegation of child sexual abuse.

10. Upon returning from his relatively brief stint in the U.S. Navy as a Military Chaplain, the Diocese assigned Father Ferraro to St. Rose of Lima in or about 1970. At this point, Father Ferraro had used his position as a Priest to sexually abuse numerous boys whom he had encountered and groomed in his parish and military assignments.

11. Father Ferraro served as a Priest at St. Rose of Lima until approximately 1973. He was forced to leave the parish after an allegation of child sexual abuse was made against him.

12. Father Ferraro continued his prolific sexual assaults of children through the 1970's and 1980's, including in assignments outside the territory of the Diocese: St. Louis, Missouri, New Jersey, and Staten Island. In approximately 1988-89, after yet another allegation of child sexual abuse, the Diocese sent Father Ferraro to St. Luke Institute, an evaluation and treatment facility for pedophile clergy in Maryland.

13. Father Ferraro was arrested in 2002 for the sexual abuse of a boy seven years old in Massachusetts, convicted, and sentenced to life in prison.

14. At all relevant times, the Diocese of Brooklyn and Church knew or in the exercise of reasonable care should have known that Father Ferraro had a propensity for the conduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual abuse of children.

15. At all relevant times, it was reasonably foreseeable to the Diocese of Brooklyn and the Church that Father Ferraro would commit acts of child sexual abuse or assault on children.

16. At all relevant times, the Diocese and the Church knew or should have known that Father Ferraro was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his ministry, counsel, care and/or protection.

17. With such actual or constructive knowledge, the Diocese's and Church's acts and omissions provided Father Ferraro with the opportunity to commit foreseeable acts of child sexual abuse or assault on Plaintiff.

Father Ferraro's Sexual Assaults of Plaintiff

18. Plaintiff was raised in a devout Catholic family. In the early 1970's, he attended St. Rose of Lima School. He was an altar boy at St. Rose of Lima Church. When he was 12 and 13 years old in 7th grade, Father Ferraro sexually assaulted Plaintiff in at least two incidents. In one of these incidents, Father Ferraro had Plaintiff sit in his lap and drive his vehicle in the Church parking lot, where he grinded and rubbed his genitalia against Plaintiff seeking sexual gratification. In another incident, in the school's auditorium/lunch room, Father Ferraro fondled Plaintiff's genitalia under his pants.

Diocese's Concealment of Acts of Sexual Abuse by Priests

19. The Bishop of the Diocese at all relevant times knew that Priests of the Diocese, under his supervision and control, were grooming and sexually molesting children with whom the Priests would have contact in their ministry and pastoral functions. At all relevant times, the Bishop knew that this was a widespread, ubiquitous and systemic problem in the Diocese, involving many Priests and numerous victims.

20. In or about February of 2019, the Diocese released a list of over 100 Priests of the Diocese, acknowledging what it deemed credible allegations of child sexual abuse that had been made against the listed Priests. These Priests are acknowledged to have abused children within

the Diocese of Brooklyn over decades. The list includes the name of Romano Ferraro, and states that he was laicized, *i.e.*, removed from the priesthood, in 2011.

21. Despite receiving credible allegations of child sexual abuse against Priests, the Diocese acted to conceal these allegations in an effort to avoid scandal and accountability.

22. This concealment was in accordance with a policy of the Diocese, as agent, and the Holy See, as principal. In 1922, the Holy See released a confidential document to its Bishops and other officials of Catholic organizations regarding the handling of cases of solicitation of sex in the confessional. This document mandated a specific procedure for Holy See's agents, including the Bishop of the Diocese, to use when a cleric abused children using the confessional. This document required strict secrecy. The 1922 document showed that the Holy See and its agents were fully aware that there was a systemic problem of clergy sexually molesting children using the confessional.

23. In 1962, the Holy See released the confidential document, *Instruction on The Manner of Proceeding in Cases of Solicitation* (The Vatican Press, 1962) (hereinafter referred to as "*Crimen Sollicitationis*"). The heading of the document states, "From the Supreme and Holy Congregation of the Holy Office To All Patriarchs, Archbishops, Bishops and Other Diocesan Ordinaries 'Even of the Oriental Rite,'" and contains specific instructions regarding the handling of child sex abuse by clergy. According to the document itself, it is an "instruction, ordering upon those to whom it pertains to keep and observe it in the minutest detail." *Crimen Sollicitationis* at paragraph 24.

24. The 1962 document reinforced that the Holy See and its agents to whom the documents was directed had knowledge that there was a systemic problem of Catholic clergy sexually molesting children using the confessional.

25. At the same time, the Holy See was involved in the formation of secret facilities in the United States where sexually offending clergy would be sent for short periods of time. In 1962-63, Fr. Gerald Fitzgerald reported to the Pope on the problem of abuse of children by clergy and expressed concerns if these priests were returned to active duty.

26. Fr. Fitzgerald's reports were kept secret under the Holy See's standing policy to avoid scandal at all costs. It's recommendation was ignored, however, and instead the Holy See made a choice to return known offending priests to active duty. At this point, it is clear that the Holy See and its agents, including the Diocese, knew they had a widespread problem of clergy sexually molesting minors, and they participated in the creation and the operation of facilities in the United States where sexually offending clergy could be sent before they were moved to another parish to work and potentially abuse again.

27. The Holy See's policy of secrecy under penalty of immediate removal from the organization (excommunication) for all involved in an accusation of child sexual abuse created a shroud of secrecy insulating Priests from consequence. Through this policy and others, the Holy See and its agents, including the Diocese, knowingly allowed, permitted and encouraged child sex abuse by the Diocese's Priests.

28. The Holy See mandates secrecy for all those involved, including agents and itself, in handling allegations of sexual abuse. Penalties for child sexual abuse include an order to move offending priests to other locations once they have been determined to be "delinquent." In response to allegations, the document mandates that supplementary penalties include: "As often as, in the prudent judgment of the Ordinary, it seems necessary for the amendment of the delinquent, for the removal of the near occasion [of soliciting in the future], or for the prevention of scandal or reparation for it, there should be added a prescription for a prohibition of remaining

in a certain place.” *Crimen Sollicitations* at paragraph 64. Under this policy of secrecy and transfers or reassignments, all involved are threatened with excommunication and, thus, damnation, if they do not comply.

29. The policy of secrecy and the severest of penalties for its violation were reiterated in documents issued by officials of the Holy See for the benefit of its agents, including the Bishop of the Diocese, in 1988 and 2001.

30. The policies and practices of the Diocese designed to conceal sexual abuse by clergy and protect it from scandal and liability included the following:

- (a) transfer and reassignment of clergy known or suspected to abuse minors to deflect attention from reports or allegations of child sexual abuse;
- (b) concealing from parishioners and even other clergy that a priest reassigned to their parish posed a danger of sexual abuse to children;
- (c) failing to alert parishioners from the Priest’s prior assignments that their children were exposed to a known or suspected child molester;
- (d) failing to report sexual abuse to criminal authorities; and
- (e) otherwise protecting and fostering the interests of abusive clergy to the detriment of the victims and the community, for the purpose of avoiding scandal and public scrutiny.

31. Upon information and belief, the Diocese’s transfers and reassignments of Father Ferraro were pursuant to this policy and practice designed to conceal sexual abuse of clergy and protect the Diocese from scandal.

32. Indeed, the policy of secrecy and lack of consequences for the sexual abuse of children was perceived as a perquisite by clergy sex abusers. The Holy See and Diocese believed it to be perceived as a perquisite, which it condoned and used to its advantage in controlling Priests.

33. Plaintiff was in a zone of foreseeable harm as a child engaged in Catholic activities in close proximity to or with Catholic clergy.

34. The Diocese was in the best position to protect against the risk of harm as it knew of the systemic problem and foreseeable proclivities of its Priests to sexually abuse children.

35. At all relevant times, while the Diocese had special and unique knowledge of the risk of child sexual abuse by its Priests, such Priests who would prey on children were outside the reasonable contemplation of the Catholic community and families who trusted Priests to have access to their children.

36. Plaintiff and his parents had no opportunity to protect Plaintiff against a danger that was solely within the knowledge of the Diocese.

37. The Diocese knew a significant percentage of Priests were using their status and position to identify, recruit, groom and sexually assault vulnerable children in the Church.

38. The Diocese concealed this knowledge, and failed to adopt policies and procedures that would protect children and reduce the risk of child sexual abuse by its Priests.

39. All children engaging in Catholic activities within the Diocese were in this manner placed at risk of child sexual abuse.

40. The Diocese failed to warn Catholic families that their children were at risk of sexual abuse by Priests.

Nature of Conduct Alleged

41. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

42. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with [name of priest], to retain [name of priest] in ministry with unfettered access to children.

COUNT I
NEGLIGENCE
(Against Diocese)

43. Plaintiff B.K. repeats and realleges Paragraphs 1 through 42 above.

44. At all material times, the Diocese was in a special relationship with Plaintiff as a child parishioner with whom one of its ordained Priests would have contacts in the course of engaging in Catholic activities. Based on this special relationship, the Diocese owed Plaintiff a duty of reasonable care.

45. The Diocese and Father Ferraro were in a special relationship of employer – employee, when the Diocese knew or should have known that Father Ferraro posed a danger to children in his role as a Catholic Priest, and thus the Diocese owed a duty to control Father Ferraro to prevent foreseeable harm.

46. The Diocese owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of Father Ferraro.

47. The Diocese owed a duty to refrain from transferring or reassigning Father Ferraro when it knew or should have known that he posed a danger to children in his duties and role as a Catholic Priest.

48. The Diocese owed a duty to exercise reasonable care in the hiring, retention and

supervision of Father Ferraro.

49. The Diocese owed a duty to warn of the dangers posed to children of sexual abuse or assault by its Priests in general, and Father Ferraro in particular. The Diocese breached this duty in failing to warn its parishioners and the Catholic faithful.

50. The Diocese breached the foregoing duties by transferring and reassigning Father Ferraro to St. Rose of Lima.

51. The Diocese breached the foregoing duties by hiring and retaining Father Ferraro as a Priest, and giving him unfettered access to children.

52. At all relevant times, the Diocese had inadequate policies and procedures to protect children who would encounter their Catholic Priests in the course of their duties.

53. As a direct and proximate result of the Diocese's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

54. The Diocese's acts and conduct shows a reckless or willful disregard for the safety and well-being of B.K. and other children.

WHEREFORE, Plaintiff demands judgment against the Diocese for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

COUNT II
NEGLIGENCE
(Against St. Rose of Lima)

55. Plaintiff repeats and realleges Paragraphs 1 through 42 above.

56. At all material times, St. Rose of Lima and Plaintiff were in a special relationship of church – parishioner, in which St. Rose of Lima owed Plaintiff a duty of reasonable care.

57. At all material times, St. Rose of Lima and Plaintiff were in a special relationship of school – student, in which St. Rose of Lima owed Plaintiff a duty of reasonable care.

58. At all material times, St. Rose of Lima and Father Ferraro were in a special relationship of employer – employee, in which St. Rose of Lima owed a duty to control the acts and conduct of Father Ferraro to prevent foreseeable harm.

59. The Church owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of St. Rose of Lima. The Church's duties encompassed the retention and supervision of Father Ferraro and otherwise providing a safe environment for Plaintiff.

60. St. Rose of Lima breached these duties by failing to protect the minor B.K. from sexual assault and lewd and lascivious acts committed by an agent and employee of the Church.

61. At all relevant times, the Church created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

62. At all relevant times, the Church had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

63. As a direct and proximate result of St. Rose of Lima's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

64. The Church's acts and conduct shows a reckless or willful disregard for the safety and well-being of B.K.

WHEREFORE, Plaintiff demands judgment against the Church for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

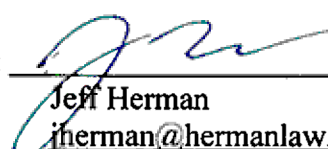
Plaintiff demands a jury trial in this action.

Dated: New York, New York
September 20, 2019

Respectfully submitted,

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